

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:99-CR-49-F-1
7:03-CV-24-F

CLAUDE WENDELL BELLAMY,)
Petitioner,)
)
v.) **ORDER**
)
UNITED STATES OF AMERICA,)
Respondent.)

This matter is before the court on Claude Wendell Bellamy's Motion for Relief from a Judgment or Order Pursuant to Federal Rule of Civil Procedure 60(d)(3) [DE-424]. In his motion, Bellamy argues that the government did not address certain claims in his Section 2255 motion.

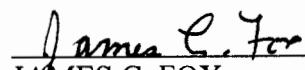
The relief Bellamy is seeking is identical to the relief he could obtain through a successful Section 2255 motion, and for this reason, the court will treat Bellamy's motion as one brought pursuant to 28 U.S.C. § 2255. *See United States v. Winestock*, 340 F.3d 200, 207 (4th Cir. 2003) (holding that “a motion directly attacking the prisoner’s conviction or sentence will usually amount to a successive application”). Bellamy previously filed a Section 2255 motion that was addressed on the merits. Pursuant to 28 U.S.C. § 2244(b)(3)(A), “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” Bellamy has not provided any evidence that he has secured authorization from the Fourth Circuit Court of Appeals to file a successive Section 2255. Indeed, the Fourth Circuit denied Bellamy a certificate of appealability for a second or successive Section 2255 motion. *See*

Opinion of January 21, 2015 [DE-422] at 2. Thus, this court is without jurisdiction to consider the merits of the present successive Section 2255 motion.

In light of the foregoing, Bellamy's Motion for Relief from a Judgment or Order Pursuant to Federal Rule of Civil Procedure 60(d)(3) [DE-424] is DISMISSED. The court finds that Bellamy has not made the requisite showing to support a certificate of appealability. Therefore, a certificate of appealability is DENIED.

SO ORDERED.

This, the 9th day of February, 2015.



JAMES C. FOX
Senior United States District Judge